

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
7

8 PERCY LAVAE BACON,

9 Plaintiff,

10 vs.

11 OSWALD REYES,

12 Defendant.
13

Case No. 2:12-CV-01222-GMN-(VCF)

ORDER

14 Plaintiff has submitted a motion for relief from judgment (#12). The court will reinstate the
15 action. Plaintiff will need to submit a new application to proceed in forma pauperis, complete with
16 a statement of his inmate account and a financial certificate signed by the appropriate prison official,
17 as required by 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2. Plaintiff also will need to submit a
18 complaint on the court's form, as required by Local Rule LSR 2-1.

19 The court cannot determine at this point what defects exist in plaintiff's claims, because
20 plaintiff did not submit a complaint when he commenced this action. However, there is a defect in
21 form, and there is a defect in the request for relief. Plaintiff has captioned this action as against
22 "Oswald Reyes, et al." Plaintiff will need to identify all defendants in the complaint. As for relief,
23 plaintiff had asked in his motions for a permanent injunction or, in the alternative, a temporary
24 restraining order (#5, #6), for a release from imprisonment to residential confinement or transitional
25 housing. When plaintiff seeks release from incarceration, his sole federal remedy is through a
26 petition for a writ of habeas corpus. Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). The court
27 does not have the power to grant plaintiff release in this type of action. Plaintiff will need to omit
28 such a request in his complaint.

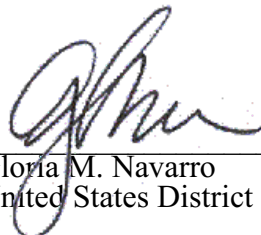
1 IT IS THEREFORE ORDERED that plaintiff's motion for relief from judgment (#12) is
2 **GRANTED**. The order (#8) and judgment (#9) dismissing this action are **VACATED**, and this
3 action is **REINSTATED**.

4 IT IS FURTHER ORDERED that plaintiff shall file another application to proceed in forma
5 pauperis, accompanied by a signed financial certificate and a statement of his inmate account. The
6 clerk of the court shall send plaintiff a blank application form for incarcerated litigants. In the
7 alternative, plaintiff shall make the necessary arrangements to pay the filing fee of three hundred
8 fifty dollars (\$350.00), accompanied by a copy of this order. Plaintiff shall have thirty (30) days
9 from the date on which this order is entered to comply. Failure to comply will result in the
10 dismissal of this action.

11 IT IS FURTHER ORDERED that the clerk shall send to plaintiff a civil rights complaint
12 form with instructions. Plaintiff will have thirty (30) days from the date that this order is entered to
13 submit a complaint. Failure to comply with this order will result in the dismissal of this action.

14 IT IS FURTHER ORDERED that plaintiff shall place the case number, 2:12-CV-01222-
15 GMN-(VCF), in the space provided on the complaint form.

16 DATED this 11th day of September, 2012.

17
18 
19 _____
20 Gloria M. Navarro
21 United States District Judge
22
23
24
25
26
27
28